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But so little civilized are we internationally that books are written and the rules of war; that the right of blockade is recognized between nations; that, because of brawls with which no outside party has any concern, the commerce of neutrals is interfered with, the property of their citizens often exposed to the ravages of war on land, while neutral governments, unlike the onlookers at a street fight, who content themselves with making a ring about the contestants, accept limitations upon their own conduct made by the fighters themselves. Can we not learn that there is no more dignity, no more glory, about a national dispute, about a national conflict, than there is in a duel between two neighbors over the proper placing of a line fence?

And if the well-being of the community demands that the quarrels of neighbors shall be determined by a legal court, if the rivalries of cities and States must find in this country their settlement in dispassionate tribunals, why should there not be, judicially at least, the United States of the world with a tribunal capable of passing upon all international questions without restrictions?

We may here pride ourselves on believing that we are going with the swing of international feeling; that with the spread of intelligence, with a greater recognition of the equality of human beings, which in the last analysis denies the right of one man to require another to sacrifice his life and property without just cause, duly ascertained by cold and competent tribunals, there must come a time when war will be looked upon as the crime that it is. The stars in their courses fight for us.

Let it not be said that I am inappreciative of the dignity of war and of the importance of the causes leading up to it. War has no dignity. It offers a tragedy and a farce. With the tragic element we are all too familiar. With the farce of it all we are less familiar, for it is one of those obvious things — so obvious and so accustomed that, like the movement of the earth around the sun, eons of time pass by without its realization. What can be more farcical than that human beings should be dressed up in gold lace and waving plumes to go forth to slay other human beings in waving plumes and gold lace? Why should bearskin shakos be used to add ferocity to their ensemble? Why should the common people, whose interest in the matter is nil, make themselves food for powder, all for the benefit of the few whose tinsel decorations blind their own eyes and those of the beholders? And why should parents who love their offspring rush into opportunities of bequeathing to them legacies of national poverty and debt as the result of a display of passion on the part of the fathers? And when all this is the work of sentient human beings, may we not wonder over their effrontery in speaking of themselves as reasoning creatures? Are nations so rushing into conflict wiser than the mad bull in the arena that with lowered head dashes upon the sword of the matador? May we not conceive of a real philosopher looking down with wondering and puzzled contempt and amazement at our bloody antics over baubles?

For as yet we are but children and have the ways of children. Between the childish disputes, "It is," "It is n't," or "I want to swing," "No, I won't let you swing," and the average difference between nations leading to war, there is in essence no distinction, — nothing save the age and number of the disputants and the con-

sequent variance in the objects which interest them. Relatively, the contest is unchanged, and equally it should be adjusted without killing and without the slow sapping away of life through taxation.

But if you tell me that such doctrines as I have tried to set out are opposed to patriotism, let me say to you that patriotism is not a fixed, but a growing term. When the first Englishmen planted themselves on the borders of Massachusetts Bay, their patriotism was bounded by the fringes of woods concealing Indian enemies. Later it meant a special sense of duty to those within the widening boundaries of the province. Yet a few years, and with the birth of a new nation, all who lived within the bounds of the thirteen original states were recognized as their brothers. Then, by leaps and bounds, it came to pass that the teeming millions of human beings from the Atlantic to the Pacific represented the solidarity of the country, and all were recognized as brothers under a common flag, and between such brothers war was a crime, and all troubles to be determined in a peaceful manner.

But one step is left. We have to recognize the brotherhood of the human race and the infinite crime of bloody contests between members of a common family. When the day of such recognition arrives we will love our immediate neighbors no less, and for them reserve the special offices that our finite strength limits us to giving to the relatively few, while the narrower features of the patriotism of to-day will be swallowed up in a broad consideration for the rights of humanity, and all men will be brothers.

International Law as a Factor in the Establishment of Peace.

BY SIMEON E. BALDWIN, FORMER CHIEF JUSTICE OF THE SUPREME COURT OF CONNECTICUT.

Address at the New England Arbitration and Peace Congress, May-11, 1910, Hartford, Conn.

Many things in this day make for peace between nations. Of one of these I have been asked to speak, — International Law.

In its early beginnings international law was mainly concerned with what pertained to war and its consequences. International intercourse in time of peace was infrequent. There were no permanent legations maintained at the various capitals until the seventeenth century. The minister from one state to another was a great officer, sent with a special commission and authority to transact some special business, and then to return to his own country. He was — and the term still lingers in use — an envoy extraordinary and minister plenipotentiary.

The establishment of permanent legations conduced to the formulation in terms of certain general usages as to the manner of conducting diplomatic intercourse and regulating international relations in time of peace. Especially did it tend to build up a law with respect to claims against governments by citizens of foreign governments, and to controversies between the subjects of different governments in which justice might be sought through actions brought in court.

From this time on, international law became divided into two parts, sometimes clearly and sometimes vaguely, — one named public international law and the other private international law.

Private international law has to do with what interests everybody at all times and in all places. It settles the rights of foreigners and our duties to them; the rights growing out of foreign transactions; things which concern men's pockets; the affairs of every day, in the normal condition of foreign relations,—that is, peace. It is mainly a law for peace and of peace. Originally, when it began to take form, it was little but the expression of the opinion of particular courts or jurists as to what system of law should be the one to which to resort, in case of doubt, for determining a question involving private rights of foreigners or private rights growing out of foreign transactions.

Suppose, for instance, that an American, traveling abroad, makes a will in Paris. Is its validity to be determined by asking whether it conforms to French law or to American law? An Italian comes over here, lays up \$1000 in a few years, and dies, leaving no will. Is his estate to be settled according to Italian law or American law? Private international law must answer and does answer these questions. You will observe that its office is to choose between the laws of different sovereigns which to apply to a particular transaction. The test naturally is: Which is it the juster to apply? Justice is the criterion. It is not important which of the two countries is the more powerful. It is seldom material which of the systems of law is the better one. All nations are equal in sovereignty, and it is for each to regulate as it pleases the legal relations of its subjects to each other, and to a large extent the acts and interests of foreigners who choose to enter its territory.

But no nation can be fully a law unto itself in regard to its treatment of matters concerning international relations. If it deals harshly with foreigners, their country will complain. Readers of Carlyle's "Frederick the Great" will not forget what was wrought by the cry of "Jenkins' Ear."

During the last quarter of a century private international law has begun to build on new foundations. In 1888 and 1889, a Congress of most of the Central American and South American powers was held at Montevideo; especially convened to agree on some general and, if possible, continental system of that branch of law. The only absentees were Columbia, Ecuador and Venezuela. Eight treaties, or conventions, were framed on as many different subjects; and all together constitute what is almost a code of this branch of international law. All nations were invited to become parties to these conventions; and Spain, in 1893, signified their approval by the crown, though for want of subsequent ratification by the legislative department this overture finally came to nothing. All the conventions of Montevideo have been approved by parliamentary action in Uruguay, Peru, Paraguay, Argentine, Ecuador and Bolivia, and several of them have received like sanction by the remaining powers.

While South America was thus occupied in devising a uniform system of private international law, Europe followed her example. Everybody is aware of the two Hague Conferences of 1899 and 1907 for the advancement of public international law. Many may not know that four other conferences have been held there—in 1893, 1894, 1900 and 1904—for the advancement of private international law. The powers represented were Holland, Germany, Austria, Hungary, Belgium, Den-

mark, Spain, France, Italy, Luxemburg, Portugal, Roumania, Russia, Switzerland, Sweden and Norway. No English-speaking country took part in them. No representation from Asia or Africa was invited; but Japan appeared at the last conference, on her own motion, and was cordially welcomed.

By these four Hague Conferences conventions have been framed on the celebration and effects of marriage, divorce, guardianship, successions to the estates of deceased persons, bankruptcy and civil procedure in courts. Each was to run for five years. Several have been fully ratified and are now in effect between most of the powers of Continental Europe. That on civil procedure in cases of an international character went thus into operation in 1899 between all Europe. It was renewed for five years, under one of its own self-executing provisions, in 1904, and has received certain additions by the action of the last of the Conferences ratified by every power.

I have given so much time to the statement of these facts, because they show so convincingly how, on both the great continents, international law is becoming settled by voluntary agreements, on the part of the leading powers, and settled on those very points which, affecting as they do personal and pecuniary interests, are a natural cause, if unsettled, or unfairly settled, of international irritation and unfriendliness.

In 1860, when President Woolsey of Yale published his treatise on international law, he defined it as being "the aggregate of the rules which Christian states acknowledge as obligatory in their relations to each other and to each others' subjects"; adding that it did not cover the law governing Christian states in "their intercourse with savage or half-civilized tribes, or even with nations on a higher level, but lying outside of their forms of civilization."

No publicist would now draw a line between Christian and non-Christian nations. Four Asiatic, non-Christian nations, besides Turkey, attended the Hague Conferences of 1899 and 1907. Japan was welcomed to that of 1904 on unquestioned terms of full equality. Both in respect to public and to private international law the Christian and non-Christian nations are working together.

The Hague Conferences of 1899 and 1907 have codified the laws of war on land and sea for the whole world, even more fully than the rules of private international law have yet been codified. By settling points which before were doubtful, much has been done in both directions to remove occasions of international controversy, and also to quiet such controversies should they, nevertheless, arise.

The permanent neutralization of a country creates a *status* which modern international law is disposed to recognize, every instance of which adds a new illustration of the prosperity which peace brings with it. These neutralizations, in an effective form, are chiefly the work of the last hundred years. Switzerland, Belgium, Luxemburg, the Ionian Islands, the Congo Free State—these dot the globe with living illustrations of what peace is. A neutralized country needs no great military or naval force, no costly fortifications,—and has none. It is spared all taxation for such objects. If war breaks out between its neighbors, its own interests are still protected,—and protected by solemn engagements that international law holds stronger than armies. If

neutralization of one country can be secured by the guarantees of a few great powers, which the lesser ones must respect because the collective force behind them is so imposing, one cannot fail to see that should, in the advance of international law, all the powers of the world guarantee the territorial integrity of each, it would in effect be simply to extend the scope of the neutralization policy,—a policy which a hundred years has proved to be one of solid value as a safeguard against war.*

An interesting study of the possibilities in this direction, by a Canadian lawyer, Mr. Jerome Internoscia of Montreal, has been recently published. He proposes a conference of all nations to agree on a common code, which to some extent shall lay down both a national law for each and an international law for all. It is, among other things, to abolish war; but this end he would achieve by the creation of a court of all nations, having some legislative and supreme judicial powers, whose judgments each nation shall be compelled to respect because, if it does not, they will be enforced by the strong hand,—in short, by war, leading after conquest to the extinction of the offending power, by selling off its territory to the highest bidder.

This rather fantastic project may serve to make more plain the natural influences which, under the principle of evolution, are slowly making themselves felt in gradual yet successive advances towards the same goal. Every new instance of neutralization, achieved by the intervention of a few great powers, helps to familiarize the world with the nature of the process, and to make clear the facility with which it can be extended. What five powers can guarantee with assurance, ten or twenty or forty can guarantee with greater assurance, and in all probability from motives more unselfish, and therefore more likely to be viewed with general respect.

Every new rule of international law laid down by a congress of many nations called to deliberate on a few subjects, such as those held during the last twenty years at The Hague, helps also to familiarize the world with the power of such a congress, called to act on a wider range of subjects, to lay down rules on any matter and on all matters of a universal character.

In introducing his draft code of international law, Mr. Internoscia well says that quarrels and petty controversies between nations come generally from the violation, real or apparent, of some private right, and that more than half the cases of violations of private right have their origin in the administration of justice towards foreigners.

The extensions of private international law made by the successive Hague Conferences for Europe indicate what may be accomplished in the same direction, by similar agencies, for the rest of the civilized world.

Every new rule of international law, plainly stated by recognized authority, in proportion to the extent of its acceptance, diminishes opportunities for misunderstandings and differences, which else might lead to unfriendliness between nations, and perhaps to war. It directs

attention also to the nature of the authority by which the rule is promulgated, and in a way that strengthens that authority. It is seen, not only that many nations, acting together, have an authority that belongs to none of them alone, and therefore is above that commonly attributed to national sovereignty, but that they have a right to that authority, demonstrated by the beneficence of the result, and accentuated by the absence of any display of the outward and visible signs of authority. War seems pushed into the background. Its domain is narrowed. Something better comes to replace it as the governing force in international relations.

International law, like every other branch, has two sides,—that of theory and that of practice. Rights are worth little unless they can be enforced by courts. Courts are worth little unless they proceed by settled rules, fairly conceived and fairly followed.

During the past twenty years great advances have been made towards assimilating the rules of judicial practice on certain subjects throughout the world. I have already alluded to the convention framed by the Hague Conference to promote private international law on international civil procedure, now adopted by substantially all Continental Europe. It covers but a few points, but those are of considerable importance for the convenience of suitors.

Last fall a diplomatic conference of twenty-three nations was held at Brussels to try to devise international rules both of right and of civil procedure in controversies growing out of commerce by sea. The United States were parties to this conference with five other American powers. Asia sent Japan, and all the great powers were represented. Conventions were framed respecting Collisions and Salvage Claims, and projects of two other conventions on Limiting the Liabilities of Shipowners and on Maritime Liens.

Should these conventions and projects be finally ratified by the governments concerned, as is not improbable, they would go far towards establishing a common code of maritime law and admiralty practice in civil causes for the whole world.

It is obvious how much this would tend to remove occasions of international dispute. Universal law, universally executed by the same rules of procedure, throws open the gates of peace for every field over which its domain is recognized. If the world begins by unifying its law for maritime transactions, it can proceed with some assurance to the greater task of unifying its law for transactions unconnected with the seas.

In its main outlines, the law of the sea has been substantially one for all nations since the Middle Ages, and it has been administered by courts of admiralty in a manner substantially the same. It has been thus easier to devise plans, such as those of the Brussels Conference, for still more exact uniformity. Nevertheless, it is a great advance to have what has grown up without any formal international agreement confirmed and extended by such agreements. It is a step which once taken is not likely to be retraced.

Formal conferences of nations, like those of Montevideo and The Hague and Brussels, make for peace, not only by removing occasions of difference in the disposition of international questions, but by habituating the powers concerned to conditions which belong to peace

*In all that period but one flagrant violation of the principle of permanent neutralization has occurred. The republic of Cracow, given this quality in 1815, by the Congress of Vienna, and placed under the special protection of Russia, Austria and Prussia, was nevertheless annexed to Austria, after a fruitless resistance, in 1846; and although France and England protested, they did not intervene with force.

It is not too much to say that, in the present condition of international morals and international law, such an occurrence would be practically impossible.

and are disturbed by war. A congress called together to formulate a doctrine of law confirms the respect which good citizens pay to law, and strengthens the feeling that in the regulation of international relations law is the permanent force and war an anomaly.

The more civilized a country is, the less ought to be, and generally is, the display of military force on the part of the government. There will be compliance with the rules of conduct which it prescribes, because they are the law of the land and it is the general feeling that it is the duty of good citizens to obey the law. A moral sentiment is behind it, and sentiment rules every people.

So it is coming to be, in the twentieth century, between nations. They are governed by international law. In proportion to their civilization, they respect its authority. Each power, in recognizing its rules, consents to them; and where there is consent force is unnecessary. International law is the legal expression in set terms of the public opinion of the civilized world as to certain points. Each new point thus given form is a step away from the field of war.

It is thus that international law is becoming, with every passing year, a larger factor towards the keeping unbroken of the peace of the world.

Europe's Optical Illusion.

BY REV. WALTER WALSH, PASTOR OF GILFILLAN
MEMORIAL CHURCH, DUNDEE, SCOTLAND.

Address delivered at the New England Arbitration and Peace Congress, Hartford, Conn., May 11, 1910.

That masterly analyst, John Ruskin, in "Unto this last," declared business to be essentially restless, and probably contentious, having a raven-like mind as to the carrion food. The great English economist, Richard Cobden, in his pamphlet "England," asserted that the defense of her commerce was the argument which had decided Great Britain to undertake almost every war in which she had ever been involved.

An English speculator, Cecil Rhodes, affirmed that modern wars were not now waged for the amusement of royal families, but for practical business; while a British Chancellor of the Exchequer bluntly confessed that the real object of naval and military expenditure was to push and protect British trade throughout the world. The argument, "be my subject or I will kill you," has changed to, "be my customer or I will kill you." Thus has Napoleon's nation of shopkeepers blossomed out into a nation of soldiers. The air is full of rumors of commercial war between Great Britain and Germany,—war for the sake of trade,—justifying the jibe of Robert Browning:

"Once you warred
For liberty against the world, and won;
There was the glory. Now you fain would war
Because the neighbor prospers overmuch."

To what extent the wealth of nations was ever, on the striking of a just balance, promoted by war, is an inquiry I will not on this occasion pursue. The proposition we are now called upon to study is, that the course of political and commercial evolution has rendered war for the sake of trade useless and ineffective even for the very object it set out to secure; that the conditions of modern commerce render it impossible for one nation to capture the commerce of another; that a victorious nation must

endure all the cost and impoverishment of war, without that compensating enrichment which formerly was supposed to accrue to the victor. This is the astounding proposition, the statement and defense of which is given in a book recently published, entitled "Europe's Optical Illusion," a book which ought without delay to find its way into every chamber of commerce and every merchant's office in the world.

The economic futility of political force—that is the argument—which, if it can be substantiated, confirms the historic phrase of the late Hon. John Hay made in the hearing of many of us at the thirteenth International Peace Congress in Boston, "the most futile and ferocious of human follies." The commercial and political outlook of Europe will undergo a transformation so soon as it is understood that the possession of military power does not insure industrial and commercial success; that such success is independent of such power, emerging from quite other conditions; and that consequently neither Germany nor Great Britain could expect to reap financial profit from even victorious war.

It is understood that the author of this challenging work is himself a journalist, and we may therefore without offense quote his opinion of journalists as well as statesmen who emit a superstitious jargon as obsolete as expositions of astrology and witchcraft belated far behind the march of events, and that the time has come to challenge their worn-out axiom, that military conquest increases the power and prosperity of the conqueror at the cost of the vanquished, and to demonstrate, on the contrary, that military force is an economic futility. That the industrial wealth of a vanquished people passes over to the victor is a grotesque fallacy comparable to the theory of cannibal warriors, that the strength and courage of the fallen foe passed into the triumphant savage who ate him.

In early times, when wealth consisted of gold and silver cups, jewels and slaves, it was possible for a conqueror to carry off booty; but now that wealth consists for the most part of foreign investments and paper securities, marauding excursions even on the grand national scale are as profitless as would be the raids of a Dick Turpin upon travelers carrying cheque books. By post, telegraph, telephone the banks of London, Paris, Berlin and New York are made financially interdependent in the same way as those of Edinburgh and Birmingham or Boston and Philadelphia; so that if Mr. Frederick Harrison's nightmare were to be realized by Germany's looting the Bank of England, Berlin would be unable to collect her debts in London, and would be impoverished to the extent of those debts. She would find she had destroyed not a rival, but a customer. She would have plunged herself into financial chaos, with resulting commercial bankruptcy and industrial dislocation.

It is impossible to exact tribute or indemnity without producing similar results; impossible is it also to capture the rivals external or carrying trade. Annexation of territory, even when politically possible, is discovered to be financially unprofitable. In every case the boomerang flies back upon the thrower. It is improbable that the dream of Pan-Germanism fully realized would make richer a single German creature. That great Scotch economist Adam Smith was the first to point out that the states of Europe might naturally form a set of closely